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New Jersey Department of Health Adult Diagnostic & Treatment Center, Special Treatment Unit,
Marcus O. Hicks and Raymond Royce*

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ELIZABETH MCNAIR, individually, and in her
capacity as the Administrator Ad Prosequendum of
the ESTATE OF DARRELL SMITH,

Plaintiff,

v.

STATE OF NEW JERSEY, et al.,

Defendants.

HON. WILLIAM J. MARTINI, U.S.D.J.
HON. CATHY L. WALDOR, U.S.M.J.

CIVIL ACTION NO: 2:21-cv-01291

**DEFENDANTS' ANSWER TO
PLAINTIFF'S SECOND AMENDED
COMPLAINT WITH DEFENSES AND
JURY DEMAND**

Defendants, *State of New Jersey, New Jersey Department of Corrections, New Jersey
Department of Health Adult Diagnostic & Treatment Center, Special Treatment Unit, Marcus O.
Hicks and Raymond Royce* (hereinafter collectively referred to as "Answering Defendants"), by
way of Answer to Plaintiffs' Second Amended Complaint, state:

PRELIMINARY STATEMENT

Plaintiff's Preliminary Statement is Denied by Defendants, State of New Jersey
(hereinafter referred to as "NJ"), New Jersey Department of Corrections (hereinafter referred to as

“NJDOC”), New Jersey Department of Health (hereinafter referred to as “NJDOH”), Adult Diagnostic and Treatment Center (hereinafter referred to as “ADTC”), Special Treatment Unit (hereinafter referred to as “STU”), and Marcus O. Hicks (hereinafter referred to as “Hicks”), as applied to them except that Defendants admit that Darrell Smith (hereinafter referred to as “Decedent”) passed away from a stroke on August 28, 2019, but lack sufficient knowledge and/or information at this time to form a belief as to the truth or veracity of the allegations against the individually named corrections officers and/or the medical defendants stated in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph. Defendant, Raymond Royce (hereinafter referred to as “Royce”), was not the administrator of the ADTC and/or STU during the timeframe of the events described, therefore, lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

SCOPE OF EMPLOYMENT/RATIFICATION

1. Admitted by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions or medical diagnoses stated in this paragraph. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

2. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants admit that Darrel Smith was a resident at the STU and was in the custody of Defendants, NJDOC and NJDOH. Defendants make no response to the legal conclusions stated in this paragraph. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

3. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph or the allegations

directed towards other defendants. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

4. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph or the allegations directed towards other defendants. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.)

5. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph or the allegations directed towards other defendants. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.)

6. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph or the allegations directed towards other defendants. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.)

NATURE OF THE CASE, JURISDICTION, and VENUE

7. This paragraph contains legal conclusions, rather than statements of operative fact, therefore, no response is required.

8. This paragraph contains legal conclusions, rather than statements of operative fact, therefore, no response is required.

9. This paragraph contains legal conclusions, rather than statements of operative fact, therefore, no response is required.

THE PARTIES

10. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that

Defendants admit that Decedent was African-American and that the STU is located in Avenel. (ADTC and STU are not part of East Jersey State Prison, which is located in Rahway, NJ) Defendants make no response to the legal conclusions stated in this paragraph. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

11. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

NJDOC, STU and ADTC Defendants

12. Admitted by Defendants, NJ and NJDOC, except that Defendants make no response to the legal conclusions stated in this paragraph. There are no allegations directed towards Defendants, NJDOH, ADTC, STU, Royce and Hicks, therefore no response is required from them.

13. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

14. Denied by Defendants, NJ, NJDOC, NJDOH, ADTC, STU and Hicks, except that it is admitted that the ADTC and STU are located in Avenel and Defendants make no response to the legal conclusions stated in this paragraph. Defendant Royce lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

15. Denied by Defendants, NJ, NJDOC and NJDOH, except that it is admitted that the NJDOC facilitates health care for inmates confined to state prisons and residents of the STU and the NJDOH facilitates mental health treatment for residents of the STU. Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendants, ADTC, STU, Hicks or Royce, therefore, no response is required from them.

16. Denied by Defendants, NJ, NJDOC and Hicks, except that Defendants admit that

Defendant Hicks was acting commissioner of the NJDOC on the dates of the events alleged in Plaintiff's complaint and make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendants, NJDOH, ADTC, STU or Royce, therefore, no response is required from them.

17. Denied by Defendants, NJ, NJDOC, ADTC, STU, Hicks and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

18. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

19. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH, Royce and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

20. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

21. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

22. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Hicks, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants,

NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

23. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

24. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

25. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

26. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

27. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

28. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that

Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

29. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

30. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

31. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

32. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

33. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

34. Denied by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

35. Admitted by Defendants, NJ, NJDOC, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants, NJDOH, Royce and Hicks lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

36. The allegations contained in this paragraph are directed towards fictitious defendants, therefore no response is required.

37. This paragraph contains no allegations directed towards Answering Defendants, therefore, no response is required.

38. This paragraph contains no allegations directed towards Answering Defendants, therefore, no response is required.

Medical Provider Defendants

39. This paragraph contains no allegations directed towards Answering Defendants, therefore, no response is required.

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49. The allegations contained in this paragraph are directed towards fictitious defendants, therefore no response is required.

50. This paragraph contains no allegations directed towards Answering Defendants, therefore, no response is required.

51. The allegations contained in this paragraph are directed towards fictitious defendants, therefore no response is required.

52. This paragraph contains no allegations directed towards Answering Defendants, therefore, no response is required.

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54. This paragraph contains no allegations directed towards Answering Defendants,

therefore, no response is required.

COMPLIANCE WITH NEW JERSEY TORTS CLAIM ACT

55. Admitted by Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU and Royce, that the Tort and Contract Unit of the New Jersey Department of the Treasury, Bureau of Risk Management received a Notice of Tort Claim on September 30, 2019, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendant Hicks lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

FACTUAL ALLEGATIONS

56. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

57. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

58. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that it is admitted that Darrell Smith passed away on August 28, 2019. Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

59. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that

it is admitted that a verbal exchange between Darrell Smith and Defendant Powell occurred on August 23, 2019. Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

60. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

61. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

62. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

63. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendant Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

64. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU and Royce, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendant Hicks lacks sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

65. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that

Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

66. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

67. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

68. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

69. Denied by Defendants, State of NJ, NJDOC, NJDOH, ADTC and STU, except that Defendants make no response to the legal conclusions stated in this paragraph. Defendants Hicks and Royce lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph.

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The Second Physical Assault

92. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

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Deliberate Indifference Serious Medical Needs

99. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

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ADTC & STU Infirmary

113. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

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144. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

145. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

146. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

147. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

148. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

149. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

150. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

151. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

152. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

153. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

154. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response

to the legal conclusions stated in this paragraph.

155. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

156. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

157. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

158. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

159. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

Witnesses to the Attack

160. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

161. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

162. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

163. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

164. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

165. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

166. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

167. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

168. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

169. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response

to the legal conclusions stated in this paragraph.

170. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

The Custom, Pattern, and Practice of Abuse

171. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

172. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

173. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

174. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

175. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

176. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

177. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

178. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

179. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

180. (a) - (e) Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

181. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

Prior and Subsequent Instances of Misconduct within the NJDOC

182. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

183. The contents of the reports speak for themselves. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

184. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

185. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

186. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

187. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

188. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

189. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

190. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

Prior Lawsuits

191. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

192. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

193. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

194. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

195. The contents of the lawsuit speak for themselves. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

196. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

197. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

198. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

199. Answering Defendants lack sufficient knowledge and/or information to form a

belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

200. The contents of the report speak for themselves. Answering Defendants lack sufficient knowledge and/or information to form a belief as to the truth or veracity of the allegations in this paragraph. Defendants make no response to the legal conclusions stated in this paragraph.

201. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

202. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

203. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

204. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

205. The contents of the report speak for themselves. Defendants make no response to the legal conclusions stated in this paragraph.

COUNT I
(8th & 14th Amendment Excessive Force – (42 U.S.C. § 1983

Answering Defendants repeat their previous responses as if set forth at length herein.

206. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

207. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in

his official capacity and Royce, in his official capacity, therefore no response is required from them.

208. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

209. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

210. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

211. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

212. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from

them.

213. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

214. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

215. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

216. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

217. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

218. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

COUNT II
(Common Law Assault and Battery)

Answering Defendants repeat their previous responses as if set forth at length herein.

219. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

220. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

221. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

222. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

223. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

224. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

225. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

COUNT III
(Unlawful Seizure – 42 U.S.C. § 1983 & Common Law)

Answering Defendants repeat their previous responses as if set forth at length herein.

226. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

227. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

228. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

229. The Court has dismissed this claim against Defendants, State of NJ, NJDOC,

ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

230. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

231. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

232. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

233. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC and STU, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH, Royce or Hicks, therefore no response is required from them.

COUNT IV
Negligence/Medical Malpractice – All Defendants

Answering Defendants repeat their previous responses as if set forth at length herein.

234. Denied, except that it is admitted that Darrel Smith was in the custody of Defendants, NJDOC, STU and ADTC. Answering Defendants make no response to the legal conclusions stated in this paragraph.

235. This paragraph contains legal conclusions, rather than statements of operative fact,

therefore no response is required.

236. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

237. Denied, except that it is admitted that Defendants, NJDOC and NJDOH contracted with UCHC, to provide such medical care and health services to residents at the STU and ADTC. Answering Defendants make no response to the legal conclusions stated in this paragraph.

238. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

239. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

240. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

241. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

242. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

243. Denied, except that Answering Defendants make no response to the allegations directed towards other defendants or the legal conclusions stated in this paragraph.

244. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

245. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

246. Denied, except that Answering Defendants make no response to the legal

conclusions stated in this paragraph.

247. Denied, except that it is admitted that Plaintiff was placed on constant watch status for his own safety. Answering Defendants make no response to the legal conclusions stated in this paragraph.

248. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

249. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

250. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

251. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

252. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

253. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

254. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

255. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

256. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

Policies, Practices, and Culpable Conduct

257. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.
258. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
259. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
260. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
261. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
262. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
263. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.
264. Admitted, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.
265. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.
266. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.
267. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.
268. Denied, except that Answering Defendants make no response to the legal

conclusions stated in this paragraph.

269. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

270. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

271. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

272. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

273. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

COUNT V
(Negligence – All Defendants)

Answering Defendants repeat their previous responses as if set forth at length herein.

274. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

275. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

276. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

277. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

278. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

279. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

COUNT VI
(Conspiracy – 42 U.S.C. §§ 1983 & 1985(3) & Common Law
All Defendants)

Answering Defendants repeat their previous responses as if set forth at length herein.

280. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

281. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

282. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

283. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in

his official capacity and Royce, in his official capacity, therefore no response is required from them.

284. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

285. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

286. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

287. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

288. Denied by Defendants, Hicks and Royce, in their individual capacity only, except

that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

289. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

290. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

291. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

292. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from

them.

293. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

COUNT VII
Failure to Intervene – 42 U.S.C. § 1983,
N.J.S.A. 10:6-2 & Common Law

Answering Defendants repeat their previous responses as if set forth at length herein.

294. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

295. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

296. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed

towards Defendants, NJDOH and Hicks, therefore no response is required from them.

297. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

298. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

299. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

COUNT VIII
42 U.S.C. § 1983 – 8th Amendment Cruel and Unusual Punishment
& N.J.S.A. 101:6-2 (Excessive Force)

Answering Defendants repeat their previous responses as if set forth at length herein.

300. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

301. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this

claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

302. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

303. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

304. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

305. Denied by Defendant, Royce, in his individual capacity only, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, ADTC, STU and Royce, in his official capacity, therefore no response is required from them. This paragraph contains no allegations directed towards Defendants, NJDOH and Hicks, therefore no response is required from them.

COUNT IX
[42 U.S.C. § 1983; N.J.S.A. 10:6-2(1); Article 1, Paragraph 12 Deliberate
Indifference to Serious Medical Needs
All Defendants

306. Answering Defendants repeat their previous responses as if set forth at length herein.

307. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

308. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

309. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

310. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

311. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

312. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

313. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

314. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

315. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

316. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

317. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

318. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has

dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

319. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

320. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

321. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

322. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

COUNT X
Supervisor Liability - § 1983 and Common Law

Answering Defendants repeat their previous responses as if set forth at length herein.

323. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

324. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

325. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

326. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

327. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

328. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU,

therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

329. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

330. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them.

331. The Court has dismissed this claim against Defendants, NJDOC, ADTC and STU, therefore, no response is required from them. This paragraph contains no allegations directed towards Defendants, State of NJ, NJDOH, Hicks or Royce, therefore no response is required from them

COUNT XI
(Negligent Hiring, Training, Supervision, & Retention)

Answering Defendants repeat their previous responses as if set forth at length herein.

332. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

333. This paragraph contains no allegations directed towards Answering Defendants, therefore no response is required from them.

334. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

335. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

336. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

337. This paragraph contains legal conclusions, rather than statements of operative fact, therefore no response is required.

338. Denied by Defendants, State of NJ, NJDOC, ADTC, STU, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

339. Denied by Defendants, State of NJ, NJDOC, ADTC, STU, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

340. Denied by Defendants, State of NJ, NJDOC, ADTC, STU, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

341. Denied by Defendants, State of NJ, NJDOC, ADTC, STU, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

342. Denied by Defendants, State of NJ, NJDOC, ADTC, STU, Hicks and Royce, in

their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. There is no allegation directed towards Defendant, NJDOH, therefore, no response is required from them.

COUNT XII
§ 1983, N.J.C.R.A., N.J.S.A. 10:6-2
New Jersey Constitution – Special Relationship
All Defendants

Answering Defendants repeat their previous responses as if set forth at length herein.

343. This paragraph contains legal conclusions to which no response is required.

344. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

345. This paragraph contains legal conclusions to which no response is required.

346. This paragraph contains legal conclusions to which no response is required.

347. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

348. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from

them.

349. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

350. This paragraph contains legal conclusions to which no response is required.

351. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

352. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

353. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

354. Denied by Defendants, Hicks and Royce, in their individual capacity only, except

that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore no response is required from them.

COUNT XIII
(Violation of the New Jersey Civil Rights Act – N.J.S.A. 10:6-1 & 2)

Answering Defendants repeat their previous responses as if set forth at length herein.

355. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

356. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

357. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

358. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has

dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

359. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

360. Denied by Defendants, Hicks and Royce, in their individual capacity only, except that Defendants make no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU, Hicks, in his official capacity and Royce, in his official capacity, therefore, no response is required from them.

COUNT XIV
42 U.S.C. § 1983 – Violation of First Amendment
(Against All Defendants)

Answering Defendants repeat their previous responses as if set forth at length herein.

361. The Court has dismissed this claim against Answering Defendants, therefore, no response is required from them.

362. The Court has dismissed this claim against Answering Defendants, therefore, no response is required from them.

363. The Court has dismissed this claim against Answering Defendants, therefore, no response is required from them.

364. The Court has dismissed this claim against Answering Defendants, therefore, no

response is required from them.

365. The Court has dismissed this claim against Answering Defendants, therefore, no response is required from them.

COUNT XV
(Negligent and Intentional Infliction of
Emotional Distress - All Defendants)

Answering Defendants repeat their previous responses as if set forth at length herein.

366. Denied by Defendant, Royce, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU and Hicks, therefore, no response is required from them.

367. Denied by Defendant, Royce, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU and Hicks, therefore, no response is required from them.

368. Denied by Defendant, Royce, except that Defendant makes no response to the legal conclusions stated in this paragraph. The Court has dismissed this claim against Defendants, State of NJ, NJDOC, NJDOH, ADTC, STU and Hicks, therefore, no response is required from them.

COUNT XVI
(Wrongful Death & Survivorship)

Answering Defendants repeat their previous responses as if set forth at length herein.

369. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

370. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

371. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

COUNT XVII
Punitive Damages – Individual Defendants

Answering Defendants repeat their previous responses as if set forth at length herein.

372. Denied, except that Answering Defendants make no response to the legal conclusions stated in this paragraph.

PRAYER FOR RELIEF

WHEREFORE, Answering Defendants deny liability or that Plaintiffs are entitled to the remedies sought. As such, Answering Defendants respectfully request that Plaintiffs' claims be dismissed, with prejudice, that judgment be entered in their favor and that they be awarded costs and fees.

DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Answering Defendants upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's suit against Answering Defendants is based on an impermissible theory of respondeat superior.

THIRD AFFIRMATIVE DEFENSE

Answering Defendants are immune from suit under the Eleventh Amendment of the United States Constitution.

FOURTH AFFIRMATIVE DEFENSE

Answering Defendants are immune from suit under the federal common law Doctrine of Qualified Immunity because they did not know, or were not reasonably expected to know, that any action taken with respect to Plaintiff, was in violation of Plaintiff's clearly defined constitutional rights.

FIFTH AFFIRMATIVE DEFENSE

Answering Defendants, State of New Jersey, New Jersey Department of Corrections, New Jersey Department of Health Adult Diagnostic & Treatment Center, Special Treatment Unit, Marcus O. Hicks, in his official capacity and Raymond Royce, in his official capacity, are not persons amenable to suit under 42 U.S.C. § 1983.

SIXTH AFFIRMATIVE DEFENSE

Answering Defendants, State of New Jersey, New Jersey Department of Corrections, New Jersey Department of Health Adult Diagnostic & Treatment Center, Special Treatment Unit, Marcus O. Hicks, in his official capacity and Raymond Royce, in his official capacity, are

not a person amenable to suit under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2.

SEVENTH AFFIRMATIVE DEFENSE

Answering Defendants acted in good faith and with reasonable and probable cause based on the then-existing circumstances, as such, they are immune from liability pursuant to N.J.S.A. 2A:156A-33.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint is governed by, and subject to, the New Jersey Tort Claims Act, N.J.S.A. 59:8-1 to 59:8-11, which precludes Plaintiffs' claims for failure to file a timely notice of tort claim regarding the allegations set forth in the Complaint. As such, the Complaint is procedurally barred.

NINTH AFFIRMATIVE DEFENSE

Answering Defendants are subject to the immunities and the defenses set forth by N.J.S.A. 59:2-1 to 59:2-11 of the New Jersey Tort Claims Act.

TENTH AFFIRMATIVE DEFENSE

Any act and/or omission on the part of Answering Defendants was a result of the exercise of judgment or discretion vested in Answering Defendants, as set forth by N.J.S.A. 59:2-3, of the New Jersey Torts Claim Act, and accordingly, no liability may be imposed upon Answering Defendants.

ELEVENTH AFFIRMATIVE DEFENSE

Answering Defendants are not liable for acts taken in good faith in the enforcement of any law, as set forth by N.J.S.A. 59:3-3, of the New Jersey Torts Claim Act. At all times material to Plaintiff's claims, Answering Defendants were acting in good faith, without fraud or malice, and therefore are immune from liability.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to punitive damages against Answering Defendants pursuant to N.J.S.A. 59:9-2(c).

THIRTEENTH AFFIRMATIVE DEFENSE

Any liability that might otherwise be imposed upon Answering Defendants pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the limitations of proportionate liability set forth in N.J.S.A. 59:9-3.1.

FOURTEENTH AFFIRMATIVE DEFENSE

Any liability that might otherwise be imposed upon Answering Defendants pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the comparative negligence provisions set forth in N.J.S.A. 59:9-4.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, are wholly attributable to the wrongful acts, omissions, or conduct of the Plaintiffs' Decedent, Darrell Smith.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' injuries and/or damages were caused by, and arose out of, risks of which Plaintiffs' Decedent, Darrell Smith had full knowledge and of which he assumed.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's injuries and/or damages were caused by, and arose out of an intervening and/or superseding factor over which Answering Defendants had no control.

EIGHTEENTH AFFIRMATIVE DEFENSE

Recovery is barred in this action by reason of the applicable statutes of limitations.

NINETEENTH AFFIRMATIVE DEFENSE

Answering Defendants are immune from suit based upon the doctrine of sovereign immunity.

DEMAND FOR STATEMENT OF DAMAGES

In accordance with Rule 26(a)(1)(A)(iii), Answering Defendants hereby request that Plaintiff furnish a written computation of each category of damages claimed against each defendant, as well as, the documents or other evidentiary material on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

ANSWER TO CROSSCLAIMS

Answering Defendants hereby deny any and all crossclaims made against them, whether existing at this time or made at any time in the future during the pendency of this litigation.

JURY DEMAND

Answering Defendants demand a trial by jury for all issues of fact.

DESIGNATION OF TRIAL COUNSEL

Please be advised that David J. Coppola, Deputy Attorney General, is hereby designated as trial counsel.

CERTIFICATION OF NO OTHER PENDING LITIGATION

I hereby certify, in accordance with L.Civ.R. 11.2, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding, and that there are no other parties who should be joined in this action.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ David J. Coppola
David J. Coppola
Deputy Attorney General

DATED: February 27, 2024

CERTIFICATION OF SERVICE

I, David J. Coppola, hereby certify that Answering Defendants' Answer and Defenses to Plaintiff's Amended Complaint and Jury Demand was electronically filed with the Clerk of the United States District Court and thereby served on all counsel of record.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ David J. Coppola
David J. Coppola
Deputy Attorney General

DATED: February 27, 2024